

Practitioner's Docket No. 16955DIVCONCIPCON(AP)**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Woodward et al  
Application No.: 08/876,937 Group No.: 1621  
Filed: June 16, 1997 Examiner: P.O'Sullivan  
For: NON-ACIDIC CYCLOPENTANE HEPTANOIC ACID, 2-CYCLOALKYL OR ARYLALKYL DERIVATIVES AS THERAPEUTIC AGENTS

Commissioner for Patents  
WASHINGTON, D.C. 20231-XXXX  
Alexandria, VA 22313-1450

**TRANSMITTAL OF APPEAL BRIEF  
(PATENT APPLICATION—37 C.F.R. § 1.192)**

NOTE: The phrase "the date on which" an "appeal was taken" in 35 U.S.C. 154(b)(1)(A)(ii) (which provides an adjustment of patent term if there is a delay on the part of the Office to respond within 4 months after an "appeal was taken") means the date on which an appeal brief under § 1.192 (and not a notice of appeal) was filed. Compliance with § 1.192 requires that: 1. the appeal brief fee (\$ 1.17(c)) be paid (\$ 1.192(a)); and 2. the appeal brief complies with § 1.192(c)(1) through (c)(9). See Notice of September 18, 2000, 65 Fed. Reg. 56366, 56385-56387 (Comment 38).

1. Transmitted herewith, in triplicate, is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on April 15, 2003.

NOTE: "Appellant must, within two months from the date of the notice of appeal under § 1.191 or within the time allowed for reply to the action from which the appeal was taken, if such time is later, file a brief in triplicate. . ." 37 C.F.R. § 1.192(a) (emphasis added).

**CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\***

(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

**MAILING**

- deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 P.O. Box 1450, Alexandria, VA 22313-1450-Mail Stop Appeal 37 C.F.R. § 1.8(a) 37 C.F.R. § 1.10 \* Brief  
 with sufficient postage as first class mail.  as "Express Mail Post Office to Addressee"  
Mailing Label No. \_\_\_\_\_ (mandatory).

**TRANSMISSION**

- facsimile transmitted to the Patent and Trademark Office, (703) \_\_\_\_\_

Date: 7/18/03

Signature

Bonnie S. Ferguson  
Bonnie S. Ferguson

(type or print name of person certifying)

\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

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## 2. STATUS OF APPLICANT

This application is on behalf of

- other than a small entity.  
 a small entity.

A statement:

- is attached.  
 was already filed.

## 3. FEE FOR FILING APPEAL BRIEF

Pursuant to 37 C.F.R. § 1.17(c), the fee for filing the Appeal Brief is:

- |   |          |
|---|----------|
| <input type="checkbox"/> small entity                         | \$160.00 |
| <input checked="" type="checkbox"/> other than a small entity | \$320.00 |

Appeal Brief fee due \$ 320.00

## 4. EXTENSION OF TERM

**NOTE:** 37 C.F.R. § 1.704(b) ". . . an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph."

**NOTE:** The time periods set forth in 37 C.F.R. § 1.192(a) are subject to the provision of § 1.136 for patent applications. 37 C.F.R. § 1.191(d). See also Notice of November 5, 1985 (1060 O.G. 27).

**NOTE:** As the two-month period set in § 1.192(a) for filing an appeal brief is not subject to the six-month maximum period specified in 35 U.S.C. § 133, the period for filing an appeal brief may be extended up to seven months. 62 Fed. Reg. 53,131, at 53,156; 1203 O.G. 63, at 84 (Oct. 10, 1997).

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

(complete (a) or (b), as applicable)

- (a)  Applicant petitions for an extension of time under 37 C.F.R. § 1.136  
(fees: 37 C.F.R. § 1.17(a)(1)-(5)) for the total number of months checked below:

Extension (months)	Fee for other than small entity	Fee for small entity
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input checked="" type="checkbox"/> two months	\$ 410.00	\$ 205.00
<input type="checkbox"/> three months	\$ 930.00	\$ 465.00
<input type="checkbox"/> four months	\$ 1,450.00	\$ 725.00
<input type="checkbox"/> five months	\$ 1,970.00	\$ 985.00

Fee: \$ 205.00

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If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

- An extension for \_\_\_\_\_ months has already been secured, and the fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ \_\_\_\_\_

or

- (b)  Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

#### 5. TOTAL FEE DUE

The total fee due is:

Appeal brief fee \$ 320.00

Extension fee (if any) \$ 410.00

**TOTAL FEE DUE \$ 730.00**

#### 6. FEE PAYMENT

- Attached is a  check  money order in the amount of \$ \_\_\_\_\_  
 Authorization is hereby made to charge the amount of \$ 730.00.  
 to Deposit Account No. 01-0885  
 to Credit card as shown on the attached credit card information authorization form PTO-2038.

**WARNING:** Credit card information should not be included on this form as it may become public.

- Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

#### 7. FEE DEFICIENCY

**NOTE:** If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to change the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, 1065 O.G. 31-33.

- If any additional extension and/or fee is required,

AND/OR

- If any additional fee for claims is required, charge:  
 Deposit Account No. 01-0885  
 Credit card as shown on the attached credit card information authorization form PTO-2038.

**WARNING:** Credit card information should not be included on this form as it may become public.

Date: 7/18/03

Reg. No.: 25,806

Customer No.:

RJ Baran

SIGNATURE OF PRACTITIONER

Robert J. Baran

(type or print name of practitioner)

Allergan, Inc.  
2525 Dupont Drive

P.O. Address

Irvine, CA 92612

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